

450
R

March 27, 1968

TO : L - Mr. Salans

FROM : L/C - Ernest L. Kerley

SUBJECT: Computation of U.S.S. Liberty
personal injury claims

This is a summary of the approach we will follow in computing the U.S.S. Liberty personal injury claims. Like any other a priori formula, it must be considered provisional and subject to revision until we have worked out a sufficient number of claims to determine whether it gives valid results.

1. We will claim for severity and nature of injury, pain and suffering of the injured man, and loss of earning capacity. Since existing precedents do not divide the first two elements, we will compute them together. Loss of earning capacity will be computed separately.

2. With regard to nature and severity of the injury and pain and suffering, we will divide the cases into three categories:

- a. Low awards. These would involve no significant residual effect and moderate pain. A typical case is Raiff v. Yellow Cab, 176 A. 2d 718 (1962) (Multiple contusions, sprained ankle, whiplash; \$3200.) Compensation claimed would be under \$5000; some claims, for very minor injuries, would be under \$1000.

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <u>L. Kerley</u>	DATE <u>4/10/53</u>
RDS [] or XDS [] EXT. DATE	
TS AUTH. REASON(S)	
ENFORCE EXISTING MARKINGS ☐	
DECLASSIFIED/RELEASABLE ☒	
PREPARED BY	
DATE OF PREPARATION	

- b. Intermediate awards. These would involve significant residual effect and severe pain. A typical case is Ragon v. Day, 306 S.W. 2d 687 (1957) (Cerebral concussion, dislocated shoulder, compressed fracture of neck, permanent stiffness of neck: \$10,000.) Compensation claimed would be between \$5000 and \$20,000.
- c. High awards. These would involve severe residual effect and very severe pain. A typical case is Sargent v. Malcomb, 146 S.E. 2d 561 (1966) (Second and third degree burns over much of body, extensive painful skin grafting, scarring not correctible: \$22,500.) Compensation claimed would be in excess of \$20,000.

3. In computing loss of earning capacity we will compute the probable life income by the same formula used for loss of support in the death cases. Where the actual income being earned is extremely low because the injured man was young and unmarried, we will use \$4,160 as the annual salary for the period 20-29 years. \$4,160 equals \$2.00 per hour, which is only slightly above the Federal minimum wage of \$1.60 per hour. The percent of disability which we will apply to the probable life income is a question of judgment, which we will make in conjunction with a doctor.

Attachment:

Tabulation of International Awards

L:L/C:ELKerley:ams

**INTERNATIONAL AWARDS
No Support by Decedent**

Case	Date	Amount	Comment
433 docket 464 Richard R. Freeman, <u>et al.</u> (U.S. v. Germany) 1922 Commission	1924	\$10,000	Lusitania case. 28 year old son
Cyril H. Bretherton (U.S. v. Germany) 1922 Commission	1925	\$ 7,500	Lusitania case. 15 month old daughter
Lt. Clarence England (U.S. v. France) Diplomatic Settlement	1906	\$ 5,790 (30,000 francs)	Young man
576 docket 234 Martha A. Gretlon (U.S. v. Germany) 1922 Commission	1924	\$ 5,000	Lusitania case. 9 year old daughter
Frank Edson Simcox (U.S. v. China) 1900 Boxer Indemnity Commission	1902	\$ 2,500	5 year old child (Six other cases involving young children in same amount.)